

UNITED STATES OF AMERICA,)
)
 v.) **ORDER**
)
 MORRIS RYAN LITWACK,)
)
 Defendant.)
 _____)

Findings. On April 19, 2017, the grand jury issued an indictment charging Defendant with two counts of possession with intent to view child pornography involving a minor who had not attained twelve years of age, in violation of 18 U.S.C. § 2252A(a)(5)(B). On February 26, 2018, the Court held a Rule 11 inquiry and accepted Defendant's plea of guilty to Count One of the Indictment. Following the Rule 11 proceeding, the Court was presented with the issue of whether Defendant should now be detained, pursuant to 18 U.S.C. § 3143(a)(2).

(2) The judicial officer shall order that a person who has been found guilty of an offense in a case described in subparagraph (A), (B), or (C) of subsection (f)(1) of

section 3142 and is awaiting imposition or execution of sentence be detained unless—

- (A) (i) the judicial officer finds there is a substantial likelihood that a motion for acquittal or new trial will be granted; or
- (ii) an attorney for the Government has recommended that no sentence of imprisonment be imposed on the person; or
- (B) the judicial officer finds by clear and convincing evidence that the person is not likely to flee or pose a danger to any other person or the community.

On February 26, 2018, Defendant pled guilty to 18 U.S.C. § 2252A(a)(5)(B). That crime is one of the crimes enumerated under 18 U.S.C. § 3142(f)(1)(A). AUSA Tom Kent advised the Court that the Government would not be recommending that no sentence of imprisonment be imposed on Defendant. As a result of the plea of guilty the Court cannot find that there is a substantial likelihood that a motion for acquittal or new trial will be granted. It appears the Court is required to apply the factors as set forth under 18 U.S.C. § 3143(a)(2) which mandate the detention of Defendant.

ORDER

IT IS, THEREFORE, ORDERED that the unsecured bond [# 4] and terms and conditions of pretrial release [# 3] entered in this matter are hereby **REVOKED** and it is **ORDERED** that Defendant shall be detained pending further proceedings in this matter.

Signed: February 27, 2018



Dennis L. Howell
United States Magistrate Judge

